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Towards an Islamic Model of Stock Market*

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ABSTRACT. The normative rules governing exchange in an Islamic stock market are discussed and the free enterprise capitalist model of stock market is evaluated from the Islamic and economic points of view. Exchange of financial claims is found more vulnerable to hazard and to lack of information, both contrary to Islamic rules of exchange. The efficiency criteria of capitalist stock markets are critically examined in the light of the theories of P. Cootner, P. A. Samuelson and J. M. Keynes. The dominance of speculative motives (vs. that of real investment) and the nature of interaction among "professional" and "non-professional" market players deprive the capitalist stock market of internal stabilizers and undermine its efficiency. Efficiency in the financial market cannot be ensured by leaving it free and ungoverned. It is necessary to reinforce Islamic rules. Some regulatory measures are indicated.

I. Introduction

This research discusses a set of normative general principles and restrictions governing exchange in an Islamic stock market. It devotes itself to a critical evaluation of the modern capitalist stock market from the Islamic and economic points of view, determining the extent to which such a model is acceptable, in principle, to an Islamic society. In making this exercise, consideration is taken of the Sharīʻah controls, which are based on the two concepts of considerations of and elimination of *gharar*, as well as on the Islamic principles that are in harmony with the concepts of economic efficiency and equitable distribution.

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The paper will deal with the general principles only; the applied side of the issue will be discussed in passing, although we believe it is necessary to evaluate or rationalize the emerging experiences of stock markets in the developing Islamic countries, with the requirement of including developmental considerations in our analysis. It is felt that our need is more for founding the principles that precede or, at least, go hand in hand with the applied process for the purpose of rationalization or guidance. The research is divided into eight parts; the first three deal with the Sharīʻah-related aspects of the study, whereas the following four discuss the economic aspects of the study from the perspective of Islamic as well as capitalist criteria of objectives and efficiency. The final part concludes the appropriate criteria for determining the optimal Islamic model. In this final chapter we shall also give some alternatives as an example without any attempt at being exhaustive.

II. The Contemporary Custom and the Modern Joint Stock Company

Modern joint stock companies play a remarkable role in terms of their great capacity to influence economic development in free-market economies. Financing of many of the gigantic economic projects is ascribed to these investment organizations, whose underlying mode of investment has received wide acceptance in contemporary Muslim societies. This mode of investment has been largely adopted by the emerging Islamic organizations, such as banks, commercial and developmental organizations, thus becoming a distinctive feature of most of the operating Islamic organizations. This is evidenced by the fact that adoption of the organizational structure of the modern joint stock companies has acquired the power of custom not only as a result of practice, but also because of the support this structure has received from Sharīʻah scholars.

Furthermore, preoccupation of some Islamic economists with the study of the characteristics of the stock market is by itself indicative not only of the fact that Islamic Sharīʻah recognizes, in principle, such vehicles for investment, but also encourages existing modes of investment that are based on the pooling of large capital resources through floating large numbers of stocks for subscription by the public under specified conditions.

On the other hand, the study of the characteristics of the stock market from an Islamic perspective requires determining the necessary Sharīʻah controls and the purpose of such an Islamic structure, in such a manner as to distinguish it from the Western capitalist model.

III. The Concept of Partnership in Islamic Jurisprudence

It is preferable to discuss this theme through a brief Islamic juridical background of the modes of investment organization (i.e. the concept of *Shirkah*) as found in our heritage of Islamic jurisprudence. This will include a quick discussion of the opinions of Muslim jurists on the subject, but without getting into details of the points of disagreement among them. Perhaps the most important issue that faced modern Muslim jurists, after laying down the principles governing the issue of *riba* (interest), is that of the Sharīʻah position regarding the modern joint stock company with a legal and financial personality independent of its constituent shareholders, a form of investment organization that has no existence in the past Islamic eras.

Jurists of the various Muslim schools of juristic thought have written on the different forms of partnership contracts. These are summed up in the research of Dr. al-Khayyat, where he says that the types of *Sharikat* in Islamic jurisprudence may be divided into the following categories:(1)

(a) ***Sharikat-ul-Amwal (Stock Companies)***

These are forms of partnership in which two or more partners agree to participate in commercial activities, each contributing a specific share of liquid funds.

This type of partnership may fall into one of two categories, the first is called *sharikat al-mufawadah*, the second *sharikat al-ʻinan.* In *sharikat al-ʻinan* the partners authorize each other to act independently in making business decisions and agree to be bound by such decisions, whether made in the presence or absence of the partners who made them. Thus each partner has the combined competence to act both as a *wakil* (agent) and a *kafil* (surety) for the others. A contract of the second category limits the ability of a partner in making business decisions; each acts as an agent and has to seek the approval of the other partners of his business decisions. Thus the first category (*sharikat al-ʻinan*) becomes (*sharikat mufawadah*) if such important conditions as equality of partners' shares and obligations are non-existence in the contract of *mufawadah* partnership.

Sharikat al-mufawadah is recognized by the Hanafī and Mālikī schools of Islamic jurisprudence, but is rejected by the Shāfiʻī school, which recognizes, along with the Zahirī, Hanbalī and Jaʻfarī schools *sharikat al-ʻinan* only.

(b) ***Sharikat-ul-Sanai***

This type of partnership is normally concluded between tradesmen or craftsmen of the same or different trade or craft, where they agree to accept work assignments and to split the gains among themselves. This category could, in turn, be a *mufawadah* or an *‘inan* partnership. This form of partnership has not been recognized by the Shafi‘ī, Zahirī and Ja‘farī schools of jurisprudence, but accepted by the Hanafī, Malikī and Hanbalī schools.

(c) *Sharikat-ul-Wujuh*

Adherents of the Malikī and Hanafī schools of Islamic thought differ in their definition of this type of partnerships. The Malikis do not permit this type of partnership as known to them, where a man of high stature and good reputation would sell to an unknown person who is the capital owner. The Hanafis, however, see this form as partnership between two persons having no capital of their own, who undertake commercial activities using the *maal* (wealth, capital) of a third party, where the partners draw on their goodwill and reputation to purchase commodities on credit and sell the same in cash.

This form of partnership is recognized by the Hanafis and Hanbalis as *mufawadah* or *‘inan* forms.

(d) *Mudarabah*

This form of partnership involves payment of one partner (called ***rabb-ul-maal***, capital owner) to another (called *Mudarib*, manager) to invest it in a commercial enterprise for an agreed common share in the profit realized. Details of the rules governing this form of partnership have been spelled out in detail in both classical and modern sources of Islamic jurisprudence and need not be dwelt upon here.

If we move from this quick juristic overview of partnership types in Islamic Law to the modern form of partnerships, we will find great resemblance between Sharī‘ah-compatible *Mudarabah* and what is known in conventional law as partnership *in commendam*(3), and also between stock companies (*sharikat-ul-amwal*, or *al-mufawadah* according to the Hanafi conception) and the modern joint liability company. In conventional law, these companies are called ‘*Sharikat-ul-Ashkhas*’ (persons’ companies), because they are formed on the basis of the mutual agreement of the partners. Thus the concept of partnership in the heritage of Islamic jurisprudence is the same as that of partnerships in the conventional sense.

It is noted that the concept of a stock company according to current terminology is different from that in the Islamic juristic parlance; we find that a stock company, whether of the *‘inan* or *mufawadah* type, depends on the partners who participate therein by contributing both wealth and work. This entails rescission of the contract of partnership once one of the partners chooses to assign his share to another person, unless the other partners elect to keep the partnership in operation and work with the new partner. However, the modern conception of a stock company completely neglects its personal side and gives prominence to its financial side; it does not stipulate that partners should know each other, nor does the contract of such a partnership come to an end once some of its partners elect to exit. These partners have nothing apart from their capital shares in the partnership, which determine their financial responsibilities and the number of votes they have in the annual meetings of the general assembly.

Early Muslim jurists did not separate the partnership from the partners, and thus did not recognize an independent existence for the partnership aside from its partners, as it is the case in the modern joint stock company that has an independent financial and legal personality. Therefore, those jurists who dismissed the modern joint stock company as unlawful from a Sharīʻah perspective (like Sheikh Taqiyyu-d-Dīn al-Nabhanī) could not find for it a legal basis in the heritage of the principles of Islamic jurisprudence(4). It has been particularly difficult to find such a legal basis due to the difficulty in meeting two basic legal conditions for the validity of the stock company contract, namely “mutual consent among shareholders” and “legal capacity”. As it is known, in such type of business organization there is no ‘offer and acceptance’, and the individual initiative is dominant, where an individual becomes automatically a partner as soon as he acquires some stocks in the company.

Dr. al-Khayyat reviews the opinions of those who accept the modern joint stock company (partnership *in comendam*, limited liability company and joint stock company). Among these are Sheikh Mohammed Abdu, Sheikh Mahmoud Shaltout, Dr. Mohammed Yusuf Mousa, Sheikh Abdulwahhab Khallāf and Sheikh al-Khālisi. Despite some variations in the level of acceptance and the qualifications these scholars imposed on this type of business organization, they all depended in accepting this type of business organization on a preponderant public interest and the absence of any harm or injustice after mutual consent has been established. They saw that this type of business organization could be classified under *Mudarabah* (partnership *in commendam*) and stock companies (*‘inan*). No doubt the modern juristic consensus in favour of modern joint stock companies depends on this principle of jurisprudence. This very same juristic principle would be adopted in this research for evaluating the trading apparatus of the stock market that goes along with this investment organization(5).

IV. The Sharīʻah Basis of Stock Exchange

In a Shariā’h compatible stock company, a stock represents a shareholder’s share in the company. Such stock is the document that gives the shareholder proof of his right to a stake in the company’s wealth comprising its paid-up capital, assets and retained profits. There are several types of socks: a common stock, which is subject to profit and loss, a preferred stock, which earns part of its share in the profits realized at a known pre-fixed rate and the loan stock, which earns its profit at a fixed rate of interest. The majority of contemporary Muslim jurists are in agreement on the permissibility of trading with common stocks, which are similar to the shares in a legal *Mudarabah*. They are in agreement as to prohibiting dealing with the other two stocks.

There seems to be a consensus of opinion among contemporary Muslim jurists on the permissibility of exchanging common stocks through buying and selling transactions(6). This is based on custom (*urf*), applying the legal maxim “That which is known as custom shall have the force of that which is stipulated as a condition”. However, purchase of a share or stock in a Shariā’h compatible stock company should not be viewed as an isolated commodity purchase transaction that is effected merely to satisfy a personal desire to own, consume or invest. As mentioned by Dr. al-Khayyat**,** a Shariā’h compatible partnership in order to be valid should meet the condition of ‘*niyyah*’ (intention), which is one of the pillars of a partnership contract(7). This is explained by the fact that a Shariā’h compatible partnership is not a mere formal contract as it is the case in conventional law; it contains in its essence, at least from an ethical perspective, the element of personal conviction and belief in the mission of the partnership and in the advantage of associating oneself, at the personal and financial levels, with its family of partners. This would guarantee the shareholder’s resolve and keenness to make the partnership successful and to help realize its profit-making and social goals.

A shareholder with such a deep conviction and belief in the mission of the partnership would not listen to or act upon the rumours often spread by market brokers regarding the partnership’s financial future by hastily selling his shares.

Dr. al-Khayyat mentioned the concept of ‘pre-emptive right’ (*Shufaah*) as a license of the Shariā’h which could be used in formulating the articles of agreement if found to be in the interest of the joint stock company(8). This stockholders’ pre-emptive right is recognized by Shariā’h; it gives them first priority to purchase new stock issues or the stocks of existing shareholders who would like to sell them(9). ‘*Shufaah*’ may be defined as “The right of a shareholder to take away, through purchase, the share of his partner that has been assigned to a third party from the hand of such third party”(10). This pre-emptive right has many supportive evidences in the Prophet’s *Sunnah*, most renowned among which is the tradition narrated by Jabir “The Prophet (P.B.U.H.) awarded *shufaah* right in things that have not been divided; once boundaries have been set, no right to *shufaah* is awarded” (unanimously accepted).

No doubt that application of the *shufaah* right restricts trading in stocks to the extent that violates the principle of an open stock market on which modern stock exchanges are based. If it is really proven that a pre-emptive right is a valid right under Shariā'h(11), it may be exercised unless the shareholders elect to waive it either explicitly or by custom, as is the case in a modern joint stock company. As mentioned earlier, "that which is known as custom shall have the force of that which is stipulated as a condition"; furthermore "people are bound by their stipulations". There is nothing to bind partners in a stock company to stipulate the exercise of such pre-emptive right if their interest requires compromising it.

Before we go into more details in discussing restrictions on the exchange of stocks, we would like to stress our understanding of the role played by modern joint stock companies and the financing flexibility they are characterized with, hence their ability to attract and mobilize huge capital resources. No doubt that freedom in the exchange of the stocks of this form of enterprise has had a great positive effect on its success.

A Stock is Different from other Economic Commodities

Shariā'h has placed restrictions on a financial stock which does not make it completely similar to other economic commodities in kind that have a specific utility, whether these other commodities are of an investment or consumption nature. It is this restriction that should distinguish the Islamic model of a stock market from the capitalist model. There is in fact no material difference between a person who gambles to purchase a lucky dip - the contents of which are unknown to him – depending in doing so only on his surmises and that who bargains to purchase stocks of a company about which he knows nothing but depends, in his purchase decision, on some unevaluated indications or signs. Stock markets in the Western world have even become a vent for the fans of gambling and games of luck, despite the availability of accurate economic data for those who need them. This is explained by the fact that the capitalist system is based on religious and ethical neutrality, a fact that makes the free market an apparatus that satisfies all desires and motives, be they of a productive, speculative or gambling nature(12). Contrary to this, we find that the Islamic system has specific religious and ethical directions that are manifest in the ethical controls and legal restrictions that are all derived from the two main sources of Shari'ah: the Qur'an and the Sunnah. Derivation of such rules governing the various Islamic economic systems is the research objective of modern Islamic Economics.

The Shariā'h emphasizes the importance of knowing the nature of the commodity to be bought (in quantitative and qualitative terms). It calls for the utilization of as accurate and equitable criteria as possible in estimating the quantity and quality to avoid the causes of *gharar* (uncertainty) and *jahalah* (want of knowledge). This is very clear in prohibiting all aleatory sale contracts, *nulamasah*, *munabathaha* and *muhaqalah* sales and the like. It is natural for a stock to denote diverse tangible assets in the form of commodities, utilities, retained profits or obligations and debts owed to others. This makes the financial background of a stock much more complex compared to other investment commodities that are in kind and of a known utility. Therefore, the purchase and disposal of such a stock need more careful consideration to avoid the occurrence of *gharar* and *jahalah* that are prohibited by Shari'ah, hence the suitability of the law of supply and demand for determining the exchange value of a stock. In order for an Islamic model of stock market to be Shariā'h compliant, it should meet two basic conditions aiming at mitigating *jahalah* and *gharar* in exchanging stocks:

First Condition: Availability to the public of objective and accurate data about the financial positions of stock issuing organizations and about other influencing or explanatory variables.

Second Condition: The possibility of understanding and processing of such data to estimate controllable exchange values without exaggeration.

Should these two conditions not be met and should the matter be left in the hands of the law of supply and demand to interplay in absolute freedom in an open market, there would be no guarantee to realize, or even come close to realizing the controlled economic values sought(13). This would even open the door wide open for the introduction of evils and malpractice, as we would see in the next section. In case we accept the necessity of realizing the discipline imposed by Shari'ah,. such discipline would place a restriction on the speed with which stocks could be exchanged in comparison with capitalist systems that usually do not monitor this discipline.

One could contend that restricting exchange or slowing it down is harmful to efficiency, as freedom in exchanging stocks without any barriers or restrictions guarantees maximum efficiency to capital markets, based on the theory of perfect competition.

This would lead us to the second section of this study pertaining to market efficiency.

V. Market Efficiency under the Capitalist System

Western economists often discuss the issue of measuring efficiency of the capital markets. There are many ways to measure such efficiency, depending on the power of the tests employed such as weak form tests, strong form tests and other means of measurement(14). The efficiency criterion is defined as the speed with which shares and stocks respond to available objective data. In other words, an efficient capital market[15] is the factor, which causes movement of liquid money in great speed and perfect accuracy, in a manner that would realize maximum returns for such liquid money.

Western economists distinguish between two types of efficiency: external and internal.

The first type indicates that appropriate economic data are available to all prospective investors at adequate speed and the least possible cost.

The second type refers to the cost of trading (deals conclusion) and to the speed with which this is done. This depends much on the role played by brokers and the commission they charge in return for the services they render to their clients. That requires meeting the condition of free competition within stock markets to the exclusion of the monopolies of some brokerage houses.

Once these two conditions are met, the market value of each type of shares and stocks would be equivalent to its real economic value.

Although there are some statistical evidence attempting to prove the quick response of security prices and consequently market efficiency in some big capitalist countries, the matter does not seem to be as simple as the way these statistical tests are conducted. It is established that the constant random fluctuations in the prices of stocks in the short term do not permit subjecting them to a scientific method that would attempt controlling or linking them to the process of objective economic data flow. Had researchers given attention to estimating the volume of scarce resources wasted as a result of constant deviations from the optimal allocation of resources and to the misallocation resulting from the speculative activity, they would have found a completely different picture than that reached by simplified statistical means.

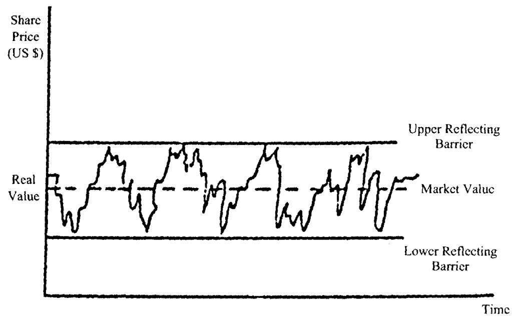
Before elaborating on our discussion of the extent the types of efficiency mentioned earlier are realized in modern stock markets, it might be worthwhile noting that the Islamic conception of efficiency of a capital market does not completely match with the Western conception, where the latter gives the incentive of immediate profit expectation a decisive role in the process of capital movement. This difference in conception arises from the fact that the Islamic conception of an efficient stock market includes, in principle at least, an important social dimension, the effects of which on the investors' motives to invest are not easy to overlook, especially if one assumes a Shari'ah-compliant Islamic society, whose individuals behave with joint responsibility towards their society. Thus, the Islamic criterion for an efficient stock market would not be the mere speed with which liquid funds flow from the less profitable projects to the more profitable ones. Reality shows that most of the projects with a social dimension are of the first type (less profitable) because their returns are slow-moving and because of their high cost in the short term, despite the fact that such projects could, in the long run, generate constant and stable income flows. The conception of efficiency that depends on the speed of response to quick profitability indicators cannot be defended from a social perspective, as it weakens real investment incentives in the long run and lures capital owners to opt for quick profit-taking in the short, if not sometimes too short, term. Hence this basic point, together with the two conditions of Shari'ah discipline mentioned earlier, would add a new cause to slow down stock circulation in the Islamic model of stock market compared to the Western model.

In spite of the above, let us temporarily adopt the capitalist definition of the conception of efficiency and see how far it is realized in reality.

First: The criterion based on the speed of response to data (external efficiency)

Western economists and many specialists in stock markets admit that the majority of speculators in international bourses fall victims of rumours and unevaluated signs regarding price movements of shares and other securities. This means that all types of data, trivial and important alike, are absorbed quickly, and that there is an element of exaggeration in evaluating the effects of some of the real economic data among the piles of data disseminated. This fact is reflected in the random pattern of the constant movement of share prices in the short term.

Among the theories attempting to explain this random *patter* is that known as the "Theory of Interaction between Real Value and Market Value" ascribed to the Western economist 'Cootner'. He portrays the pattern of share price fluctuations as a random walk around the economic value of shares, bordered by reflecting barriers from above and below as shown in the following graph.



This theory ascribes market price fluctuations to the irrational behaviour of the majority of investors and emphasizes the role of professionals in intervening to install the reflecting barriers shown above in such a manner as not to make the market price of a stock or other security too far from their real economic values.

No doubt that this pattern has risen as a result of not meeting the two conditions imposed by Sharīʻah discipline mentioned in Section 3 above, the realization of which would result in controlling these fluctuations by limiting their random walk within the narrowest scope possible; thus market prices would become more stable and closer to their real value. However, realization of such stability cannot be achieved without introducing the element of controlled and unhurried processing of data and limiting the role of the majority of naive investors, an arrangement that would slow down circulation of a stock as mentioned in the previous section. Therefore, compliance with Islamic Shariʻah controls, mentioned earlier, would result in a more stable model, although at the expense of the speed rate of stock circulation.

The main advantage of this Shariʻah-compliant model comes from its realization of the efficiency standard in a more meticulous manner than the open capitalist model according to the standard of correspondence (or proximity) between the market value and the real economic value of a stock, which is another logical expression of the stock market efficiency standard.

The problem of an open market is not limited to quick absorption of all types of data, significant and trivial alike, nor to exaggeration in evaluating the effects of some objective data among the aggregate of available data; the problem is aggravated by some of the unethical practices which lead naïve investors (who constitute a majority) away from the real value of securities.

These unethical practices fall within what is known in Islamic jurisprudence on sale (beyouʻ) as *najsh* (make-believe sale and purchase transactions aiming at ensnaring unwary customers; churning), *ghabn* (sale of a commodity to a customer at a price that is far higher than its market value, thus inflicting *ghabn* on the customer, where in this case the customer would be the object of *ghabn*) and *tadlees* (fraud, misrepresentation) and other similar ways of illegally influencing prices.

Until 1934, American Law had not intervened to prohibit such practices, which were prevalent and profitable in America prior to the Great Depression that afflicted the country in 1929. Before that, pools used to be established, attracting all possible means of influence from within and outside bourses, with each participant contributing whatever available capital or expertise he had. Then the pool would operate within the stock market, in extreme secrecy and cunning, to deceivingly convince unwary customers of unrealistic prices. The American Law is still unable to fight these practices, which have taken many forms and which are difficult to control.

On the other hand, we find that brokers play an effective role in raising the pace of stocks circulation, i.e. the continuous change of the various stocks in the portfolio of individuals and firms and the constant changing of their ownership due to variations in expectations and calculations. Such a process is stimulated by stock exchange brokers, who keep feeding it with hot tips and exaggeration of unconfirmed news. This leads to constant changes in the accounts of dealers with brokers, a phenomenon known in stock exchange parlance as ‘churning’. The American Law has tried to limit resort to this practice without much success, as it is often difficult to confirm its source.

Thus what is known as external efficiency cannot be realized by the stock market according to the experience of Western capitalism(16).

Second: Internal Efficiency Standard

If we look into internal efficiency, which constitutes the second source of efficiency, we would observe the increasing influence of intermediaries of all types, starting from floor brokers to jobbers and specialists, who work for their own account. They enter the market with huge capital, capitalizing on the benefits granted to them by the Stock Market Board of Directors.

Among the reasons for establishing an alternative market to the New York Stock Market (NYSE) was the comparative increase in the commission charges, claimed to be caused by the availability of free information. Thus, third and fourth markets have been established in a bid to have a lesser commission, especially for large-amount deals which are not given any discount in the stock market. However, NYSE is still the first and largest monopoly market, where more than 80% of the value of shares and stocks in America are traded and where seats on its Board of Directors are the monopoly of large corporations, mainly financial intermediaries with great financial influence.

Of course it is not easy to separate the phenomenon of financial brokerage and the vibrant and active nature of the mechanism. As long as the volume of daily transactions (measured in minutes and seconds) is measured in millions of dollars, the market mechanism must create other specialized bodies to promptly implement dealings, provide advice and facilitate other procedures. Therefore, it cannot be dispensed with that large interconnected network of brokers and intermediary companies. This specialization came as a result of the market volume and the speed rate of exchange in proof of Adam Smith's theory that "specialization is governed by market size".

In concluding this section, we did not aim to test the efficiency of the capitalist model of stock market more than we wanted to shed light on the difficulty of realizing this theoretical understanding of the concept of market efficiency in an open market that does not abide by Shari'ah controls. This point would be stressed more in the coming sections of this study.

Sound measurement of market efficiency should be based on the extent of the deviation of market prices around real economic values that, from at least a theoretical viewpoint, represent the points on which the condition of efficient balance of liquid capital market is based. We do not feel that any person who might do this would be able to support the claim of efficiency ascribed by some researchers to free capital markets in the advanced industrial countries.

We shall come back to this point after we review, in the next Section, the motives of financial speculation and evaluate them from an Islamic perspective.

VI. Speculation Motives: Comparison between Capitalist and Islamic Markets

First: The Capitalist Market

As it is often the case in capitalist markets, we find that most stock- holders exchange them, through selling and buying transactions, after a short time from registering them with the issuers. Not only that, a majority of these stockholders bypasses this registration stage to cut the period of holding to their stocks. They, instead, register them with a brokerage house that takes advantage of a temporary price rise and sells these stocks, waiting for the prices to come down then purchases them again at the new lower price(17). This is one of several forms of what is known as 'short-selling'(18), which are purely speculative in nature, as clearly seen.

It is this form for which many investment companies have come into existence. These companies offer attractive salaries to managers who are professionals in the art of financial speculation and to investment advisers to realize the maximum possible gains by finding an optimal balance between long and short positions, such as those known by the name of 'hedge funds'.

Thus the speculative motive, or short selling, is a factor that helps raise stocks transfer rates and stimulate exchange in the stock market. As a result of high inflation and interest rates, the modern monetary system, which is controlled by Western capital, has made it very difficult to separate productive investment in the conventional sense from investment in the modern speculative sense. The latter type is known by the name of ‘price-gaining’, whereas investment in the productive sense refers to a moderate and stable return resulting from the optimal investment of some real fixed or financial assets. The *status quo* indicates that understanding investment in its productive sense is no longer suitable for a financial environment whose main characteristics are high inflation rates and lack of a minimum level of certainty and economic stability, which would enable the investor to ward off risks to guarantee adequate and moderate returns.

Of course this picture is not accidental in a capitalist system, due to high inflation rates which started to show their signs after the Second World War, but rather a natural outcome of the capitalist system itself. Thus the speculative activity is not only a result of the inflationary situation, but also its cause. There is a reciprocal relation between the two: wherever there is inflation, there is speculative activity; the other way round holds true. Financial and real estate speculation does not become active and profitable unless accompanied with high inflation rates and renewed risks; it feeds on, and is fed by such inflation and risks.

Therefore, it was not surprising to find that modern capitalist investment theories are formulated with the assumption that the wise speculator is a speculator who is busy balancing his investment portfolio to achieve an optimal allocation for his savings between the various financial assets and other fixed assets(19). In an environment characterized by low security, renewed risks and the spread of rumours, the process of trying to achieve this optimal balance becomes a dynamic one that is renewed every hour, and has no place for those who are not well-versed in the art of speculation.

Thus, with the rise of such speculative activity, joint stock companies have almost become receptacles or traps, into which and out of which stocks come and go continuously. This phenomenon would result in a loss in efficiency, which Western analysts ignored when measuring the efficiency of capital markets, as the inefficient management of joint stock companies would continue for longer periods because of the diminishing sense of belonging among stockholders vis-à-vis specific companies and because of spending most of the time watching changes in stock prices. Hence, incompetent and inefficient management would remain beyond accountability, where most stockholders would be complacent just to sign proxy statements.

Speculative Activity and the Benefit Accrued from Liquidity

Some analysts ascribe to speculative activity in the stock market the benefit of generating liquidity that helps investment expansion in society “through making available that category of investors who are willing to buy and sell at prices that would realize to them short-term gains"[20]. This argument is obviously incorrect for exchange in the capital market (which is a secondary market), no matter what motives it may have, is linked to the exchange of other stocks and securities issues, and does not generate additional liquidity. Speculative activities in these markets is a mere transfer tool for expected capital gains; that is transfer of such capital gains expected to accrue to stockholders, to others who are waiting for a temporary rise in the prices of such stocks in order to buy them from their holders. Once bought, they draw on their knowledge and sound judgement, and re-sell them after a short period at a higher price. The renowned British economist, J. M. Keynes confirms this fact by pointing out that "there is nothing among the principles of orthodox finance that is more alien to society than that fetich called liquidity. This theory overlooks the fact that it is impossible to have liquid investment for the entire society"[21]. This is because the sale and purchase of existing assets, whether financial or fixed, is nothing more than exchanging the positions of liquidity and financial obligations among sellers and buyers.

Perhaps the 'liquidity argument' is more appropriate for defending the mere need for a regulated stock market; since the existence of such market would urge those households with no experience in the field of business to channel an important portion of their private savings to the purchase of shares and stocks characterized by liquidity (i.e. ease of sale to get cash through the organized forums whenever needed). This would give a clear incentive to owners of savings to participate with their savings in the formation of a social capital with the least possible risk. This does not of course mean that these forums have the ability to generate liquidity, but rather refers to the economic role these forums could play in urging and encouraging investment spending and in expanding the base of those who participate in it[22]. We have seen in the previous part of this research that the modern capitalist organization of such financial forums has made them a hotbed for speculative activities. In the next section of the study, we shall come back to the issue to explain the disorderly disturbance this speculative activity causes to the attempt at objectively measuring capital market efficiency.

Second: In an Islamic Market

Islamic Shari'ah urges and encourages that type of exchange that results in the creation of real utility, whether done directly or indirectly by way of productive mediation or through auxiliary production services in the short or long run. The Islamic conception of investment should realize that particular form of commercial exchange that involves the creation of utility by lawful means and to steer away from any commercial exchange that aims only at generating profits to one of the exchange parties without providing real value to society, such as in the parasitic mediation and most of the financial and real estate speculative activities which are dominant in the modern capitalist system.

One can explain how keen Islamic Shari‘ah is on linking commercial exchange to production by citing the important juristic maxim stipulating receipt of the commodity bought prior to selling it. Modern means of exchange have made the exchange of legal certificates of ownership a means par excellence for the exchange of commodities among the largest number of brokers so that each could get his share of profit without any material development of the commodities involved. Physical development of a commodity here does not include changing the physical appearance of the commodity involved only; the merchant plays the same role as the manufacturer in ‘developing’ the physical appearance of a commodity by way of transporting it from one place to another, storing it or preparing it to be at the direct disposal of the consumer. The merchant need not do himself these processes of commodity development; his agent who may complete this cycle more efficiently could accomplish them (such as the relationship between a wholesaler and a retailer). This in fact constitutes the theoretical principle on the basis of which it is allowed to add the trade or distribution sectors to the other productive sectors when calculating national income according to the recommendations of the UN experts in national income statistics[(23)]. It is this principle that made Al Sadr distinguish between the exchange of ‘corporeal property’, which is encouraged by Islam for the real utilities it creates, and ‘legal title’ which characterizes capitalist system. When Ibn Abbas was asked about the wisdom of the Prophet’s prohibition of exchanging food for food prior to receiving it, he said “That is an exchange of *darahim* for *darahim* and the food is deferred”. One can see the analytic economic dimension of this succinct answer. In his book *Al Umm*, Imam Shafi‘ī expanded, as the Malikis did, the rule governing receipt to include not only foodstuffs, but all types of movable assets. This is because he applied the Prophet’s tradition narrated on the authority of ‘Itab bin Ussayd when sent by the Prophet to Makkah and advised him to “Instruct them not to accept profit from that which they did not guarantee and the sale of that which is not in their possession”. This is also the view of Imam Abu Hanīfah and Imam Ibn Hanbal; to them the concept of legal possession applies to everything according to its nature.

These remarks were connected to our discussion of Sharī‘ah controls, which make out of investment-based exchange a productive and useful activity, not a speculative one as is the case of short-selling of stocks, the effects of which obliterate each other.

VII. Speculation and the Problem of Objective Measurement of Efficiency

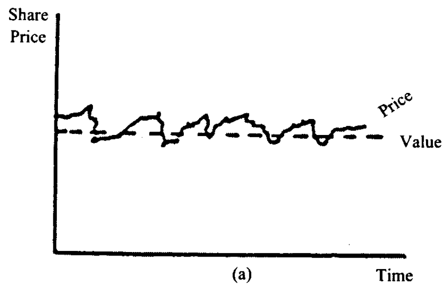
In Section 4 of this paper, we have mentioned the theory of Cootner, which shows the random fluctuations of the market price of a stock in a random walk that goes around the economic value of a stock. This random walk is bordered from above and from the bottom by reflecting barriers as a result of interventions from professional investors who control its direction in such a manner as to keep it not too far from the economic values. We have seen also how the behaviour of the majority of naive investors, who fall an easy prey to unevaluated signs, explains the phenomenon of random fluctuations.

Despite its acknowledgement of the disturbing discrepancy between the economic value of stocks and their actual market prices, Cootner's theory is considered an optimistic one as it gives 'professionals' a positive role in correcting the random walk of market prices in order not to go far from their real economic values. To clarify this point, we shall need to define the economic value of a stock as included in Cootner's theory. What is meant by the economic value of a stock is that value determined by the share of the stockholder in the monetary yield expected to accrue from investing real (capital) assets in the production process. But since the investment decision related to the purchase of productive capital assets depends on long-term expectations (that is the essence of the theory of capital marginal efficiency), the economic value of a stock, as found in Cootner's theory, is its value in the long-term too. Had intervention by professionals, or competition among them, been conducive to bringing stocks market values closer to their stable economic values, it would have been a good cause for optimism about the efficiency of an open stock market. Reality shows the contrary; we find that the efforts and energies (both analytic and consultative) of professionals are directed towards finding the best way of seizing expected gains in the short-term just before they become known to the majority of naive investors. This means that the motive of the financial investor (as opposed to the real investor) is linked to short-term, expectations. It means as well that the role of professional investors is not as described by Cootner's theory; rather it is closer to that found in Samuelson's theory known as the "theory of the efficient fluctuation of stock prices".

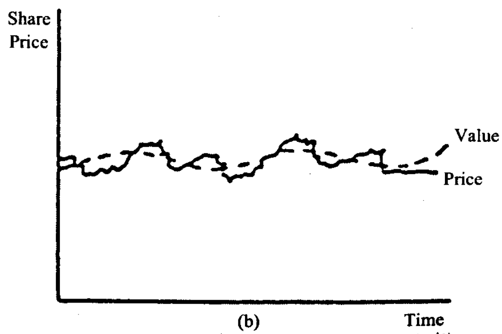
Efficient Fluctuation Theory

The well-known American economist, Paul A. Samuelson, expanded on the theory of Cootner and introduced the concept of 'efficient fluctuation'. The content of this concept is that the random walk of market prices does not revolve around a stable value as in Cootner's theory, but rather around another random walk. This means that, 'economic values' of stocks are not stable values but fluctuating and swinging; they fluctuate in accordance with the constant changes that befall short-term production circumstances of the issuing parties. The gist of this theory is that an efficient capital market is a market the prices of which fluctuate and swing to correspond, in all times, with economic values in their fluctuations and swings. This is based on the assumption that 'professionals' play their role of correcting the general random walk, by drawing on their knowledge and expertise, to make it in harmony with random fluctuations of economic values in the short term.

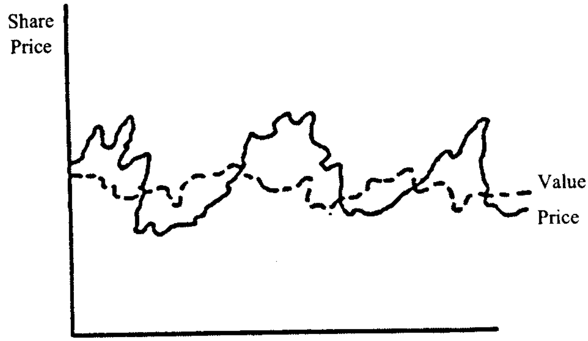
Even if we assume that professionals are keen on reading these fluctuations of economic values in the short term and on directing market prices in accordance with them, this role complicates the problem and adds a heavy burden on professionals to improve their follow-up on, and evaluation of, economic and administrative news that are constantly changing and renewable. The most competent among these professionals might be able to sift in-coming pieces of information and ascertain those that are objective, despite the fact that such professionals are prone to misjudgment, whether arising from exaggeration or illusion. No doubt that to hit a randomly moving target would be much more difficult than hitting a still one, or one which is slightly moving in a controlled manner. This means that the degree of random deviation around randomly changing points would be greater than around relatively stable points. This is made clear in the following figures.



(a)



(b)



(c)

It is obvious that figure ‘C’ represents the theory of efficient fluctuation adopted by Samuelson, where the economic value of a stock changes randomly while actual market prices keep away more randomly around that value. This phenomenon could be considered as a result of the constant random movement of the reflecting barriers, upper and lower. Therefore this theory is taken as a natural extension of Cootner’s theory. The second case, as represented in figure ‘B’, is a special case that indicates the fluctuations of economic values resulting from repeated and regular factors in the short term and are predictable, like the seasonal fluctuations of some types of production during the year. But the pattern we find in capitalist markets is subject to the application of Samuelson’s theory as represented in figure ‘C’, a fact that is supported by some empirical studies. In one of these studies, it has been proven that random fluctuations taking place within a day and the following one are independent of each other, where yesterday’s general level of prices does not account for more than 1.5% of today’s prices(25). The question that arises is: what are the original information the daily absorption of which leads to this constant fluctuation? No doubt that the information published in the financial newspapers, the special news bulletins, the events and advertisements disseminated by the media and the rumours spread by people all have a direct impact on market price fluctuations.

Keynes Theory of Stock Market

Keynes sums up all these interactions that control prices in the financial market in the expression ‘market mass psychology’. He considers it the effective factor that directs the course of security prices. If this is true, the essential point to which we should pay attention here is the role of ‘professionals’ in directing this ‘market mass psychology’ in accordance with the way it is reflected in the impressions of the majority of share and stockholders and their reactions to economic, administrative and other news.

VIII. Interaction of Professionals with Mass Psychology

In our review of the concept of 'efficient fluctuation' (see previous Section), we were assuming that professional investors would follow up on short-term changes in the economic values of securities, contrary to Cootner's theory, which assumes rather their follow up on stable economic values (i.e. long-term ones). We also discussed the extra burden that would fall upon these professional investors in their attempt to estimate these fluctuating economic values and in directing the actual movements of market prices in such a manner as not to keep them too far from these fluctuating economic values.

What is interesting in this conception is that it is still an optimistic one, in spite of the fact that it gives a confusing picture about the efficiency of an open market economy (where the degree of random deviation of market prices around the real economic values increases). To give professional investors that corrective role (though stumbling) in directing price movements towards their variable economic values, implies that these professionals are the ones who control the market 'mass psychology' in order not to go far away from the objective evaluation of the real market conditions.

However, reality shows that it is this mass psychology which controls these professionals' estimates and not the other way round, a fact that obliterates the positive corrective role ascribed to the population of professional investors, and consequently the total destruction of the theory of 'efficient fluctuation'. Keynes was right when he described professional investors in stock markets as "…(people) who are not interested in knowing the real value of investment… but in the market evaluation of investment under mass psychology…"[(26)]. This indicates that the skill of the professional investor is embodied in his ability to know the trends of 'mass psychology' through deduction – that is in his ability to predict what the public would do a short while before the public knows – and not, as we were assuming, in attempting to correct and direct such mass psychology.

This is not surprising if we understand that financial speculation is the motive that controls a professional's conduct and calculations. He seeks to follow the best course that would enable him realize capital gains as a result of fluctuations in stock prices, regardless of the factors that govern such fluctuations. He is not responsible for the extent these price movements are in harmony with the objective economic changes. Should there be some power that is able to direct such movements, it should be assigned to the economic entities issuing the stocks; it is these entities that should be responsible for convincing the public of their sound economic conditions. Thus the final conclusion of this conception is that the public is the final judge in the process of evaluating the impact of constant economic and administrative changes and other factors on the exchange values of shares and stocks, and in fact it is the public that direct the decisions and predictions of professionals, not the other way round.

Thus to acknowledge that the majority of dealers in modern stock markets fall prey to unevaluated signs and propaganda campaigns, an acknowledgement that is found in principle in Cootner's and other modern financial investment theories, would directly lead to the conclusion that these markets are inefficient. A scientifically-based attempt at measuring efficiency, according to the criterion of closeness between real economic values and market prices, would lack the necessary objective basis as a result of the lack of an internal power (or a built-in regulator) within the increasing speculative waves that would correct the random walk of market prices and direct them towards economic values. Keynes was referring to this issue when he was warning of the dangers of gradual shrinking of the role of real economic knowledge in evaluating investments. This is the knowledge acquired by businessmen as a result of their direct connection with production and the increasing role in evaluation of the community of shareholders who do not participate in business management nor endowed with special knowledge(27). Although it was Keynes who first included the concept of 'speculative motives' into the analysis of demand for money, we find him saying in some of his reflections on the speculative practices found in stock markets:

"The funny picture of our modern investment markets makes me lean towards concluding that our contemporary ills may find a successful remedy if we make the process of purchasing and investment a life-long commitment that is not subject to liquidation (inescapable), like marriage, unless revoked by death or any other grave reason(27).

Importance of Adopting Sharī'ah Controls

Before we conclude this section, we would like to refer, in passing, to the implications of developing countries' adoption of a system of an open stock market and of allowing financial speculations in such a market. The low per capita income in developing countries compared to that in developed countries, and the small volume of personal savings therein ensure not only a small volume of stocks exchanged in the aggregate, but also lead to keeping such exchange limited within the community of investors who are interested in buying stocks in the modern but developing monetary sectors. However, one should not conclude from this that the limited speculative practices in the developing stock markets are not dangerous because of the small size of the market and its poor capabilities that do not encourage exchange at the pace found in the advanced industrial countries. The comparison between the two groups of countries is relative to a great extent. This is because developed countries have reached a stage of development that enables them to achieve automatic growth, and no matter how wide financial speculative activities might become, the infrastructures of real production activities therein, whether material or human, could resist or absorb whatever shocks they might receive. In developing countries, the small size of the stock market and the limited spread of financial speculative activity therein are matched by the small production base characterized by a weak intrinsic immunity against factors of instability. This makes developing countries more keen to re-organize stock markets and to direct them in such a manner as to help achieve the objectives of real growth.

Adopting the Shari'ah controls discussed in Section (3), that are keen on reducing uncertainty (*gharar*) and lack of knowledge (*jahalat*) and on keeping stock market prices close to their real economic values, and re-organizing stock markets in accordance with these Shari'ah controls, would make our stock markets more efficient and able to support development objectives. We shall now move to the concluding part of the study which discussus the characteristics of the organizational form that would embody the Islamic model of stock market.

IX. How Characteristics of the Islamic Model Could be Determined?

Our previous discussion has crystallized in the saying that most of the problems violating the concept of efficiency in financial markets stem from the decreased role of real economic knowledge in determining the market value of current investments, as well as from the increased evaluative role of the community of shareholders who do not possess such knowledge. We have seen in section (3) of this study that a stock is unlike a corporeal commodity having a known utility to participants in market transactions, and that to allow the laws of supply and demand to determine the exchange values in an open market would result in making the market value of a stock more prone to *gharar* and *jahalat*, in their Islamic juristic senses, in comparison to other corporeal commodities. Emphasis of Islamic Sharī'ah on the importance of knowledge about the subject of the sale means in other words that it is important that the seller and the buyer know what they are selling or buying; this knowledge is basic to the concept of the consumer's or producer's economic rationality according to economic theory. Whereas the degree of *gharar* in sales of corporeal property is insignificant or immaterial, thus making the principle of an open market appropriate and not inconsistent with efficiency to a noticeable degree, the degree of such *gharar* in the sale of shares and stocks is not immaterial. This highlights the need to re-consider the principle of an open financial market. Phrased in such a manner, it is hoped that this statement have succeeded in explaining the nature of harmony between compliance with the controls of Sharīʻah and the need for an efficient financial market. Following are some of the features that should, in our opinion, characterize the Islamic model of stock market:

I. Subordination of the Financial Market to the Corporeal Property Market, in the sense that movements of the financial market should follow and be strongly linked to movements in the corporeal property market; this means supremacy of the real economic knowledge in directing the movement of stocks.

II. Market values are based on long-term expectations instead of short-term changes; this would limit purely speculative trends and encourage long-term investments.

III. Satisfaction of the motives of the community of investors is not limited to the expected cash returns only; it goes beyond that to satisfy the desire of positive participation to achieve the economic objectives of the Muslim society. We have explained in section (4) that the dominance of speculative motives and devotion of investors' time to following up on the minute changes in the expected cash returns in the short-term are reasons for weakening investors' sense of belonging towards specific companies. We also concluded that this would lead to the continuation of inefficient management as a result of the lack of accountability, where most investors would tend to be complacent, signing proxy statements and keeping away from their companies.

What is the Appropriate Organizational Form to be Adopted?

Finally, it might be important to touch upon the issue of choosing the organizational form most suitable for a stock market. No doubt that this issue needs further studies and unified academic efforts. However, there should be first an agreement on the main principles on which any alternative organizational form should rest. Our objective in this Study has been to discuss these principles. Owing to the close connection between behavioural motives in society and the orientations of economic activity, the appropriate organizational form cannot dispense with the guiding and stimulating role of the State to support investment behaviour in the stock market in such a way as to realize the three characteristics mentioned above.

Therefore, the minimal restriction required to be imposed in order to re-organize the stock market on an Islamic basis is to establish the organizational controls that solve *gharar* and *jahalat* risks related to stocks as the subject matter of selling and purchasing transactions. It is worth mentioning that immaterial *gharar* is acceptable by the majority of Muslim jurists to remove hardship from business dealings, for there is no room, in fact, to take inventory of all sources of *gharar* and *jahalat* and to subject them to strict control… Th Prophet (P.B.U.H.) permitted the sale of food by way of estimation (when dry measures or scales are not available for controlling quantities), although he prefers the use of ("Sā'", a tool for taking dry measurements) in order to take exact measurements when selling foodstuffs[(29)].

Determining what constitutes a reasonable degree of *gharar* or *jahalat* is, no doubt, arbitrary, as there is no exact rule that enables us to make such determination. However, the rule requires restricting and limiting, as much as possible. The best model, in our view, would be that which would utilize available control tools in the best possible manner to restrict sources of *gharar* and *jahalat* without going into any of the two extremes of immoderation and negligence. Excessive attempts at controlling *gharar* and *jahalat* would be tantamount to an attempt at their total eradication, which is impossible, let alone the great hardship and strain this radical attempt would cause to the interests of people. The other extreme means neglecting of the application of these two Sharī'ah controls and to adopt instead the Western capitalist model as it is, the shortcomings of which, such as loss of economic efficiency and other harms they cause to the stock market, have been discussed in other parts of this research. The following two alternative models are presented as examples and are not meant to be exhaustive.

Alternative I: Aiming at Blocking the Means (sadd-uth-tharai') or Pricing

This alternative ensures replacement of the market body by a central, and technical and inadequate one that would include experts who are specialists in financial and investment analysis. They would estimate the exchange values of stocks through renewable field statistical studies that would embrace, in a disciplined manner, all objective economic indicators that influence the stock market. No doubt that, although unbiased, such changes would not be free from statistical errors, which means that it would be impossible to eliminate the element of *gharar* altogether.

It might be true to say that this model, which tries to replace the direct meeting of the supply and demand sides by field surveys and quantitative analysis of economic data, is not practical, as it consists of complex organizational and financial procedures to ascertain its technical efficiency and requires keeping abreast of events to a degree that would ensure actual compliance with its estimations. Perhaps this alternative is, to some, on the side of the extremism and may harm interests.

Alternative II: Technical Advice

The previous alternative could be modified in the following manner: To establish the independent technical body, supplying it with all the necessary technical and analytical expertise, in order only to provide free advice to stock owners and prospective investors. Thereafter, exchange values of stocks would be determined by business activity in the market as usual. Such a body may be financed partially through a fee imposed on stock owners, an arrangement that would direct them to benefit from this consulting service, the price of which they would have paid anyway, and guarantee limiting the effects of *gharar* and *jahalat* on market exchange values.

This might constitute the minimum restriction that is needed to formulate an Islamic mode of stock market. We consider this as sufficient for the purpose of this study, looking forward to undertaking further studies in the future aiming at deepening the principles of this subject.

Notes

(1) **al-Khayyat, Abdulaziz Ezzat**, *Partnerships in Islamic and Conventional Law* (in Arabic), Amman, Ministry of Endowment, Islamic Affairs and Holy Places, 1390H (1971), pp. 208-221.

(2) **al-Khayyat**, ibid. Vol. 2, pp.7-12

(3) **al-Khayyat**, ibid. Vol. 2, pp.141-146

(4) **al-Khayyat**, ibid. Vol. 1, p.211

(5) Our interest here is in what is called the 'secondary market' of issued stocks as opposed to the 'primary market' which is relevant to new issues.

(6) For more information, refer to the resolutions of the Fiqh Academy of the Organization of the Islamic Conference.

(7) **al-Khayyat**, op. cit. Vol. 2, pp.127

(8) **al-Khayyat**, op. cit. Vol. 2, pp.217

(9) It is worth mentioning that the American Law of Joint-stock Companies gives such preemptive right to old stockholders, although in practice it has been totally neglected. See **Sharp, W**., *Investments*, Prentice Hall: International Education, 1981, p. 333.

(10) **Ibn Qudamah,** al-Mughni wa-sh-Sharh-ul-Kabir, Beirut, Dar-ul-Kitab al-'Arabi, Vol. 5, p. 459.

(11) We were not able here to formulate the juristic roots of preemptive right pertinent to joint-stock companies and it might be worthwhile to devote an independent research for this issue.

(12) It is noticed that the modern theory of financial investment adopts a general idea about investment that includes the traditional concept viewing investment as a really productive process, and the gambling- speculation-based one on the pretext that dissociating the two aspects is an arbitrary matter. See W. Sharp, op.cit. p. 5.

(13) We shall deal with the definition of the economic value of a stock in section (6) of this research.

(14) **Elton** and **Gruber**, *Modern Portfolio Theory and Investment Analysis*, N.Y., Wiley and Sons, 1981, pp. 362-389.

(15) A note by the editor on the two variants in Arabic spellings of the adjective meaning 'efficient'.

(16) We depend here on the American experience, which is considered the closest to a scientific model of an efficient stock market.

(17) **Gub, B.** *The Basics of Investing*, N.Y. Wiley and Sons, 1979, pp. 22-23.

(18) "Short-selling" is a technical financial term meaning purchase (of stocks) for the purpose of selling them quickly thereafter.

(19) **Christy** and **Glednenin**, *Introduction to Investment*, N.Y. McGraw Hill, 1981, p.1.

(20) **Al-Rukaibi**, *Saf'aq*: Comment on the paper entitled "Investment and the Stock Market from an Islamic Perspective", Conference of the League of Arab States, November 1985, Tunisia.

(21) **Keynes, J.M.**, *The General Theory of Employment, Interest and Money*, London: Macmillan, St. Martin's Press, 1970, p. 155.

(22) It is known that the process of creating additional liquid resources to finance investment expansions is realized through what is called the 'primary market', where new issues of stocks are purchased and sold. This aspect has been excluded from this research as our interest is mainly centered on already issued stocks, or the 'secondary market'.

(23) U.N. Statistical Office, *A Manual of National Accounts at Constant Prices*, Based on the SNA, 1968, pp. 10-15.

(24) **As-Sadr, Mohammed Baqir**, *Iqtisaduna*, (Our Economics – in Arabic) , Beirut, Dar Al Ma'arif, 1401H (1981), pp. 680-683.

(25) **Elton** and **Gruber**, op.cit. pp. 366

(26) **J.M. Keynes**, ibid. 154-55.

(27) **J.M. Keynes**, ibid., p. 153.

(28) **J.M. Keynes**, ibid., p. 160.

(29) **Ibn Qudamah**, Ibid., Vol. 4, pp. 219-220.

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نحو نموذج إسلامي لسوق الأسهم

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المستخلص : يناقش البحث المبادئ العامة التي تكيف طبيعة التداول في سوق إسلامية للأسهم، ويقوم من الناحيتين الشرعية والاقتصادية نموذج سوق الأسهم الرأسمالية الحرة . ويؤكد البحث أن السهم المالي يختلف عن سائر السلع العينية في أن تداوله أكثر عرضة للغرر والجهالة الممنوعان شرعًا، ثم يناقش الدعوى ومعايير كفاءة الأسواق المالية الرأسمالية، مستعرضاً في ذلك نظريات كونتر (P. Cootner) وسامولسون (P. A. Samuelson) وكينز (J. M. Keynes) في الموضوع، ويخلص إلى أن سيطرة دافع المضاربة على الأسعار بين المحترفين وطبيعة العلاقة بين هاتين الفئتين تجعل السوق بدون منظم داخلي يحد من الجهالة والغرر ويحقق الكفاءة .

ويستنتج الباحث أن الكفاءة لا تتحقق في السوق المالية بترك عملياتها حرة دون انضباط، بل تتحقق بدعم السوق بالضوابط الشرعية للتداول، ثم يشير بإيجاز إلى بعض الصيغ التنظيمية التي قد تحقق ذلك .